

III. Remarks

Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks. After the amendments detailed above, claims 1 and 8 have been amended, claims 2-6, 9 and 10 have been maintained in their previous form, claim 7 has been canceled, claims 11-19 have been withdrawn and claims 20-26 have been added. Applicants appreciate the Examiner's allowance of claim 10.

A. Withdrawal of Claims 11-19

Applicants acknowledge the telephonic interview of November 8, 2004 in which an election was made to prosecute claims 1-10 and withdraw claims 11-19. Applicants affirm that claims 11-19 are withdrawn without traverse.

B. Information Disclosure Statement Issues

In accordance with the Examiner's request, Applicants hereby provide a courtesy copy of most of the documents listed on the Information Disclosure Statement filed on November 13, 2003, which are indicated as not having been considered. Unfortunately, Applicants have been unable to locate the three articles listed on the 11/13/03 IDS -- these articles are highlighted on the copy of this IDS, attached with this Response. Pursuant to a conversation with the Examiner on February 15, 2005, Applicants will proceed with filing this Response, and the Examiner will attempt to locate these documents at the USPTO. Should further attempts to locate these documents be unsuccessful, Applicants invite the Examiner to contact the Applicants' undersigned attorney to resolve this issue.

Regarding the Information Disclosure Statement filed on August 17, 2004, Applicants offer the following concise explanation of the relevance of the documents in compliance with 37 CFR 1.98(a)(3). Each of these documents appear to relate to a corset device having piston-like devices for moving portions of the corset device away from one another, or simply to the piston-like devices themselves. In accordance with the requirement of 37 CFR 1.98(a)(3)(ii), Applicants enclose a copy of the translation of the claims of DE10007635A1.

C. Discussion of Rejected Claims

Claims 1 and 3-7 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. RE 34,883 to Grim. Claims 2, 8 and 9 were rejected as being obvious over additional references. These rejections are moot, as claim 1 has been amended. In particular, claim 1 has been amended to further define the brace as having a backplate that is pivotally connected to the belt. Applicants respectfully submit that Grim '883 does not teach or suggest a backplate pivotally connected to the belt. In fact, in rejecting claim 8 under 35 USC 103(a), the Examiner expressly stated in the Office Action that Grim '883 does not disclose "a back plate coupled to the belt using a canting mechanism." *See page 6 of the Office Action.* The present amendment to claim 1, in effect, incorporates the canting mechanism of claim 8 and further clarifies this canting mechanism as providing a pivotal connection allowing rotation of the belt with respect to the backplate.

The Examiner cited U.S. Patent No. 5,363,863 to Lelli as disclosing a canting mechanism, which is allegedly combinable with Grim '883 to render claim 8 obvious. In particular, the Examiner relied on the length adjustment means (4a) of Lelli as disclosing a canting mechanism in the sense that the length adjustment means (4a) achieves the purpose of adjusting the belt to conform to the user's body. However, Applicants respectfully submit that Lelli does not disclose a pivotal connection between the backplate and the belt as now claimed in amended claim 1. The length adjustment means (4a), which basically comprises straps with buttons thereon, is provided to adjust the length between lateral pieces 3 and the rear piece 1. *See col. 4, lines 3-15.* The straps (4a) extend through rings 15, which are operatively secured, via fasteners 15, to a metallic reinforcement 7 of the rear piece 1. *See col. 4, lines 3-8; see also Figure 1.* Accordingly, the straps (4a) of Lelli are not pivotally coupled to rear piece 1, but rather extend through rings 14 to allow for length-wise adjustment, not pivotal adjustment.

Even if Lelli were somehow construed to have a pivotal connection at the rings 14, the straps (4a) would be ineffective for pivotal movement. More particularly, pivotal movement of one strap at the ring 14 would necessarily introduce slack into the opposing strap, thus rendering the straps (4a) ineffective for their intended use, which is to maintain the rear piece "constantly pressed against the user's spinal column." Col. 1, lines 32-35. These same arguments would

similarly apply if the pivotal connection were argued to occur at the interface between fasteners 15 and reinforcement 7. For these reasons, Grim and Lelli cannot support an obviousness rejection of amended claim 1.

Therefore, amended claim 1 patentably defines over the Grim and Lelli references, and is now in condition for allowance. As dependent claims 2-6 and 8-9 depend from and further limit independent claim 1, these claims are in condition for allowance as well.

D. Discussion of New Claims

New claims 20-22 have been added to further define amended independent claim 1. For the reasons stated above with respect to amended claim 1, new claims 20-22 are also in condition for allowance. Moreover, claims 23-26 have been added to further define allowed claim 10. As claims 23-26 depend from and further limit allowed claim 10, these claims are in condition for allowance as well.

E. Conclusion

An early formal notice of allowance of claims 1-6, 8-10 and 20-26 is requested. Applicants believe that no additional fees are required to complete this filing. However, Applicants authorize the Commissioner to charge any fees required to complete this filing, to Account No. 13-0480, Attorney Docket No. 24004350.010030 US-2.

Applicants enclose a courtesy copy of the new Power of Attorney and change of address, which was previously submitted on March 17, 2004.

If the Examiner has any questions regarding this Response to Non-Final Office Action or the Application in general, Examiner is invited to contact the Applicants' attorney at the below-listed telephone number.

Respectfully submitted,



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